

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

United States of America,  Plaintiff,  v.  Peter James Monson,  Defendant.	Case No. 21-CR-44 (SRN/DTS)     <b>ORDER</b>
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Peter James Monson, Reg. No. 32015-509, FCI-McKean, P.O. Box 8000, Bradford, PA 16701, Pro Se.

Katharine T. Buzicky, Craig R. Baune, and Laura Provinzino, Office of the United States Attorney, 300 South Fourth Street, Suite 600, Minneapolis, Minnesota 55415, for the Government.

SUSAN RICHARD NELSON, United States District Judge

This matter is before the Court on Peter James Monson’s Pro Se Motion to Vacate under 28 U.S.C. § 2255 [Doc. No. 107]. Based on a review of the files, submissions, and proceedings herein, and for the reasons below, the Court denies the motion.

Mr. Monson pleaded guilty in October, 2021, to two counts of production and attempted production of child pornography, and one count of possession of child pornography. (Plea Agmt. [Doc. No. 40].) On February 25, 2022, this Court sentenced him to a 400-month term of imprisonment (Sentencing J. [Doc. No. 60]), and he is currently incarcerated at the Federal Correctional Institution located in McKean, Pennsylvania. *Find an inmate*, Fed. Bureau of Prisons, *available at* [www.bop.gov/inmateloc/](http://www.bop.gov/inmateloc/) (last accessed

March 12, 2024). Mr. Monson filed a direct appeal [Doc. No. 62] of his sentence to the Eighth Circuit Court of Appeals. On July 25, 2022, the Eighth Circuit dismissed his appeal. (8th Cir. J. [Doc. No. 87].)

On July 10, 2023, Mr. Monson filed a pro se motion to vacate his sentence under 28 U.S.C. § 2255 [Doc. No. 96]. On December 20, 2023, this Court denied Mr. Monson's motion to vacate. (Dec. 20, 2023 Order [Doc. No. 105].) An appeal packet was mailed to him along with the judgment on December 21, 2023. (Judgment [Doc. No. 106].)

The present Pro Se Motion to Vacate before the Court was filed on January 22, 2024. Despite the filing caption, Mr. Monson describes his motion as a "Petition for En Banc/Panel Rehearing of the District Court's Denial of Mr. Monson's Motion to Vacate Under 28 U.S.C. § 2255." ([Doc. No. 107] at 1.) In the motion, he states that he received this Court's December 20, 2023 Order, and describes his objections to it. (*Id.*)

When a federal inmate's first motion under § 2255 has been denied, the statute requires a specific process before that inmate may file a second or successive motion. 28 U.S.C. § 2255(h). The inmate must seek authorization to file the motion from a panel of the appropriate court of appeals. *See id.*; 28 U.S.C. § 2244. Mr. Monson does not allege or provide proof that he sought such authorization. Accordingly, to the extent that his motion is a motion to vacate his sentence pursuant to § 2255, the Court must deny his motion. *See Rouse v. United States*, 14 F.4th 795 (8th Cir. 2021) (affirming the denial of motions "because they were second or successive claims for § 2255 relief that had not been authorized by the court of appeals under § 2244(b)(3).").

In order to appeal an adverse decision on a § 2255 motion, a movant must first obtain a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1)(B). A certificate of appealability cannot be granted unless the petitioner “has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). To the extent that this Order denies the § 2255 motion, the Court has considered whether the issuance of a certificate is appropriate here and finds that the basis for denial is not reasonably debatable. *See* 28 U.S.C. § 2253(c); *Slack v. McDaniel*, 539 U.S. 473, 484–85 (2000).

To the extent that Mr. Monson intended for his motion to operate as an appeal from the Court’s December 20, 2023 Order, only the Eighth Circuit Court of Appeals can entertain such a request. That said, the Court also declined to issue a certificate of appealability in its December 20, 2023 Order, having found that the basis for its Order was not reasonably debatable. (Dec. 20, 2023 Order at 15–16.) This Order does not change the Court’s prior ruling.

Accordingly, based on the submissions and the entire file and proceedings herein,

**IT IS HEREBY ORDERED** that:

1. Mr. Monson's Pro Se Motion to Vacate under 28 U.S.C. § 2255 [Doc. No. 107]  
is **DENIED**.
2. The Court declines to grant a certificate of appealability.

**LET JUDGMENT BE ENTERED ACCORDINGLY**

Dated: March 14, 2024

/s/ Susan Richard Nelson  
SUSAN RICHARD NELSON  
United States District Judge